

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA
LAS VEGAS, NEVADA**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	Case No.: 2:10-cr-00071-HDM-PAL
)	
vs.)	
)	MINUTES OF COURT
VERNON K. NEWSON,)	
)	
Defendant.)	November 17, 2011
	/	

PROCEEDINGS: JURY TRIAL - DAY FOUR

PRESENT:

THE HONORABLE HOWARD D. McKIBBEN, SENIOR U.S. DISTRICT JUDGE

Deputy Clerk: Paris Rich Reporter: Kathryn French

Counsel for Plaintiff: Roger Yang, AUSA and Brian Young, AUSA

Counsel for Defendant: Richard Boulware, AFPD and Monique Kirtley, AFPD

At 7:30 a.m., the Court convenes.

On behalf of the Government, Roger Yang and Brian Young are present. Also present are Case Agent Dennis Crowther and Computer Technician Judy Godfrey.

The Defendant (On Bond) is present with counsel Richard Boulware and Monique Kirtley. Also present is Paralegal Bonnie Arentz.

The Court addresses Mr. Boulware's oral objection recited at the conclusion of the proceedings on November 16, 2011 regarding Mr. Yang's statement as to the Defendant's "opportunity to do what he normally does." The Court advises, after review of the record, the Court sustained Mr. Boulware's objection at the time, and the witness did not answer. Therefore, there is no response to strike. Mr. Boulware requests no further instruction of the jury on this issue.

The Court addresses the Government's [78] Motion in Limine to Allow Summary Witness. The Court recites findings. **IT IS ORDERED, [78] Motion is GRANTED in part and DENIED in part. The Government's witness shall be allowed to testify with limited purpose, as recited.**

The Court addresses the Government's [96] Motion in Limine to Exclude Other Customer Evidence and [98] Supplement thereto. The Court recites findings. **IT IS ORDERED, [96] Motion and [98] Supplement are DENIED.**

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The Court addresses the Government's [97] Motion in Limine to Exclude On-Site e-File Compliance. **IT IS ORDERED, [97] Motion is DENIED.**

The Court further addresses the Government's previously admitted Exhibits 38 and 39. The Court advises counsel that the Government's Exhibits 38 and 39 are not conformed for operation on CD device as previously stated. Therefore, in the event the jury desires to review the Government's Exhibits 38 and 39, the jury will be required to return to the Courtroom in the presence of the Court and counsel.

At 7:50 a.m., the Court stands at recess.

At 8:27 a.m., the Court reconvenes with counsel present as previously indicated.

The Court inquires as to the verbiage set forth in [58] Superseding Indictment and the word "fraudulent" vs. "false." Mr. Yang responds.

At 8:28 a.m., the jury enters the Courtroom.

The Court recites complimentary statements to the jury regarding their promptness and attentiveness during the trial.

EVELYN KAY FALL, Revenue Agent for Internal Revenue Service, called on behalf of the Government, is sworn, examined on direct by Mr. Yang, cross-examined by Mr. Boulware and excused.

The Court provides cautionary admonitions to the jury as to the Government's witness Evelyn Kay Fall.

At 8:53 a.m., the Government rests. The jury is admonished and excused.

The Court reconvenes outside the presence of the jury.

On behalf of the Defense, Mr. Boulware recites oral motion for judgment of acquittal. Mr. Yang responds. The Court recites findings. **IT IS ORDERED, the Defendant's oral motion for judgment of acquittal is DENIED.**

Mr. Boulware addresses the Defense's scheduled witnesses. Mr. Boulware further advises he has provided copies of tax returns for these witnesses to the Government. The Court and counsel confer.

At 9:10 a.m., the jury enters the Courtroom.

CRYSTAL CORBIN, called on behalf of the Defense, is sworn, examined on direct by Mr. Boulware, cross-examined by Mr. Young, examined on redirect by Mr. Boulware, examined on re-cross by Mr. Young and excused.

STEVE WALLACE, called on behalf of the Defense, is sworn, examined on direct by Mr. Boulware, cross-examined by Mr. Young, examined on redirect by Mr. Boulware, examined on re-cross by Mr. Young and excused.

At 10:05 am, the jury is admonished and excused.

Outside the presence of the jury, the Court and counsel confer regarding the trial progression.

At 10:15 a.m., the Court stands at recess.

At 10:51 a.m., the Court reconvenes with the jury and counsel present.

MARCI HOLLAND, called on behalf of the Defense, is sworn, examined on direct by Mr. Boulware, cross-examined by Mr. Yang, examined on redirect by Mr. Boulware and excused.

The Defendant's Exhibit 691 is received in evidence.

The Defense rests.

Mr. Yang states the Government rests and confirms it will not be calling a rebuttal witness.

At 11:15 a.m., the jury is admonished and excused. The Court and counsel confer.

At 11:22 a.m., the jury enters the Courtroom. The Court presents the sequence of the remaining trial proceedings to the jury.

At 11:24 a.m., the jury is admonished and excused until Friday, November 18, 2011 at 8:00 a.m.

The Court reconvenes outside the presence of the jury. Mr. Young confirms the conversion of Government's Exhibits 38 and 39 from the present format to a CD format would result in voluminous disks. Therefore, the Court states in the event the jury desires to review the Government's Exhibits 38 and 39, the jury will be required to return to the Courtroom in the presence of the Court and counsel.

The Court and counsel confer regarding the settling of instructions.

At 11:28 a.m., the Court stands at recess until 1:30 p.m. this date.

At 1:30 p.m., counsel is present as previously indicated. The Court and counsel and confer off the record regarding the jury instructions.

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At 2:05 p.m., the Court reconvenes outside the presence of the jury. Counsel stipulate they have received the jury instructions the Court intends to give in this matter and the suggested verdicts. There is no objection by the Government or the Defense.

Mr. Yang offers the Government's Good Faith instruction. The Court marks the Government's aforementioned instruction as the Government's No. 1 Rejected Instruction.

Mr. Boulware offers the Defendant's Specific Issue Unanimity instruction and Impeachment Evidence–Witness instruction. The Court marks the Defendant's aforementioned instructions as the Defendant's No. 1 and No. 2 Rejected Instructions.

At 2:17 p.m., Mr. Boulware recites a renewed oral motion for judgment of acquittal. The Court recites findings. **IT IS ORDERED, the Defendant's renewed motion for judgment of acquittal is DENIED.**

Mr. Boulware readdresses the issue of the social security numbers contained in the admitted exhibits to be presented to the jury. The Court confirms an order on this issue will be presented to the jury prior to commencement of deliberations.

Counsel stipulate to the Court's previous order this date regarding Exhibits 38 and 39, and the Court confirms it will present an order to the jury prior to the commencement of deliberations

IT IS ORDERED, Jury Trial is continued to Friday, November 18, 2011 at 8:00 a.m. in Las Vegas Courtroom 7D.

At 2:21 p.m., the Court adjourns.

LANCE S. WILSON, CLERK

By: /s/ Paris Rich
Deputy Clerk